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waiver of the CEDS requirements of §303.7 of this chapter;

(2) Involves a Project undertaken by an Indian Tribe;

(3) Is rural and severely distressed;

(4) Is undergoing a transition in its economic base as a result of changing trade patterns (e.g., the Region is certified as eligible by the North American Development Bank Program or the Community Adjustment and Investment Program);

(5) Exhibits a substantial reliance on a natural resource for its economic well-being;

(6) Has been designated as a Federally Declared Disaster area; or

(7) Has a Special Need.

(b) For purposes of this part, excessive unemployment exists if the 24-month unemployment rate is at least 225 percent of the national average or the per capita income is not more than 50 percent of the national average. A Region demonstrates excessive underemployment if the employment of a substantial percentage of workers in the Region is less than full-time or at less skilled tasks than their training or abilities would otherwise permit. Eligible Applicants seeking a Special Impact Area designation under this criterion must present appropriate and compelling economic and demographic data.

(c) Eligible Applicants may demonstrate the provision of useful employment opportunities by quantifying and evidencing the Project's prospective:

(1) Creation of jobs;

(2) Commitment of financial investment by private entities; or

(3) Application of innovative technology that will lead to the creation of jobs or the commitment of financial investment by private entities.

[71 FR 56675, Sept. 27, 2006, as amended at 79 FR 76136, Dec. 19, 2014]

PART 311 [RESERVED]

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PART 312—REGIONAL INNOVATION PROGRAM

Subpart A—General Provisions

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Subpart C—Regional Innovation Research and Information Program [Reserved]

312.13–312.17 [Reserved]

AUTHORITY: 15 U.S.C. 3701 *et seq.*; Department of Commerce Organization Order 10–4.

SOURCE: 82 FR 3134, Jan. 11, 2017, unless otherwise noted.

Subpart A—General Provisions

§312.1 Purpose and scope of the Regional Innovation Program.

The purpose of the Regional Innovation Program is to encourage and support the development of regional innovation strategies. The Regional Innovation Program includes two sub-programs. One is focused on the formation and development of regional innovation clusters and implemented through the Regional Innovation Strategies Program. 15 U.S.C. 3722(b). The second program is focused on best practices, metrics and the collection and dissemination of information related to regional innovation strategies, achieved through the Regional Innovation Research and Information Program. 15 U.S.C. 3722(c). The Secretary has delegated to the Economic Development

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Administration the authority to implement and administer the Regional Innovation Program.

§ 312.2 General definitions from Public Works and Economic Development Act regulations inapplicable to this part.

The definitions contained in § 300.3 of this chapter do not apply to this part.

§ 312.3 General definitions.

As used in this part, the following terms shall have the following meanings:

Act or *Stevenson-Wydler* means the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3701 *et seq.*).

Assistant Secretary means the Assistant Secretary of Commerce for Economic Development within the Department.

Department of Commerce, Department, or *DOC* means the U.S. Department of Commerce.

Economic Development Organization means an organization whose primary purpose is to support the economic development of a community or region.

EDA means the Economic Development Administration within the Department.

Eligible applicant means an entity qualified to be an eligible recipient or its authorized representative.

Eligible recipient means a recipient that meets the requirements of § 312.6.

Equipment is defined at 2 CFR 200.33.

Federal agency means any executive agency as defined in 5 U.S.C. 105, and the military departments as defined in 5 U.S.C. 102, as well as any agency of the legislative branch of the Federal Government.

Federal funding opportunity or *FFO* means an announcement that EDA publishes during the fiscal year on a Federal Government grants platform or on EDA's Internet Web site at <http://www.eda.gov>, <https://www.eda.gov/oie/>, or any successor Web site, that provides the funding amounts, application and programmatic requirements, funding priorities, special circumstances, and other information concerning a specific competitive solicitation under EDA's Regional Innovation Program.

Federal interest is defined at 2 CFR 200.41, in accordance with 2 CFR 200.316.

Federal laboratory means any laboratory, any federally funded research and development center, or any center established under section 7 or section 9 of the Act that is owned, leased, or otherwise used by a Federal agency and funded by the Federal Government, whether operated by the government or by a contractor.

Grant means the financial assistance award of EDA funds to an eligible recipient, under which the Eligible Recipient bears responsibility for meeting a purpose or carrying out an activity authorized under Stevenson-Wydler. See 31 U.S.C. 6304.

In-kind contribution(s) means non-cash contributions, which may include contributions of space, Equipment, services, and assumptions of debt that are fairly evaluated by EDA and that satisfy applicable Federal Uniform Administrative Requirements and Cost Principles as set out in 2 CFR part 200.

Indian tribe means an entity on the list of recognized tribes published pursuant to the Federally Recognized Indian Tribe List Act of 1994, as amended (Pub. L. 103-454) (25 U.S.C. 479a *et seq.*), and any Alaska Native Village or Regional Corporation (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*)). This term includes the governing body of an Indian tribe, nonprofit Indian corporation (restricted to Indians), Indian authority, or other nonprofit Indian tribal organization or entity; provided that the Indian tribal organization or entity is wholly owned by, and established for the benefit of, the Indian tribe or Alaska Native village.

Investment or *Investment assistance* means a grant entered into by EDA and a recipient.

Investment rate means, as set forth in § 312.8, the amount of the EDA investment in a particular project expressed as a percentage of the total project cost.

Matching share or *Local share* means the non-EDA funds and any in-kind contribution(s) that are approved by EDA and provided by a recipient or third party as a condition of an investment. The matching share may include

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funds from another Federal agency only if authorized by a statute that allows such use, which may be determined by EDA's reasonable interpretation of such authority.

Nonprofit organization is defined at 2 CFR 200.70.

Office of Innovation and Entrepreneurship or *OIE* means the office established by 15 U.S.C. 3720.

Project means the proposed or authorized activity (or activities), the purpose of which fulfills EDA's mission and program requirements as set forth in the Act and this part, and which may be funded in whole or in part by EDA investment assistance.

Public-private partnership means a relationship formalized by contractual agreement between a public agency and a private-sector entity that reasonably defines the terms of collaboration in the delivery and financing of a public project.

Real property means any land, whether raw or improved, and includes structures, fixtures, appurtenances, and other permanent improvements, excluding moveable machinery and equipment.

Recipient means an entity receiving EDA investment assistance, including any successor to the entity approved by EDA in writing. If investment assistance is awarded to more than one recipient under a single award, the recipients are referred to as "co-recipients" and, unless otherwise provided in the terms and conditions of the investment assistance, each co-recipient is jointly and severally liable for fulfilling the terms of the investment assistance.

Region or *Regional* means an economic unit of human, natural, technological, capital, or other resources, defined geographically. Geographic areas comprising a region need not be contiguous or defined by political boundaries, but should constitute a cohesive area capable of undertaking self-sustained economic development.

Regional innovation clusters or *RICs* means a geographically bounded network of similar, synergistic, or complementary entities that are engaged in or with a particular industry sector and its related sectors; have active channels for business transactions and

communication; share specialized infrastructure, labor markets, and services; and leverage the region's unique competitive strengths to stimulate innovation and create jobs.

Regional Innovation Program means the program enacted by Stevenson-Wydler at 15 U.S.C. 3722.

Regional Innovation Research and Information Program or *RIRI Program* means the program authorized by 15 U.S.C. 3722(c).

Regional Innovation Strategies Program or *RIS Program* means the cluster grant program authorized by 15 U.S.C. 3722(b).

Science or research park means a property-based venture that has: Master-planned property and buildings designed primarily for private-public research and development activities, high technology and science-based companies, and research and development support services; a contractual or operational relationship with one or more science- or research-related institutions of higher education or governmental or nonprofit research laboratories; a primary mission to promote research and development through industry partnerships, assisting in the growth of new ventures and promoting innovation-driven economic development; a role in facilitating the transfer of technology and business skills between researchers and industry teams; and a role in promoting technology-led economic development for the community or region in which the park is located.

Secretary means the Secretary of Commerce.

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

United States means all of the States.

Subpart B—Regional Innovation Strategies Program

§ 312.4 Purpose and scope of the Regional Innovation Strategies Program.

Under the RIS Program, EDA makes grants on a competitive basis to eligible applicants to foster connected, innovation-centric economic regions that support commercialization and entrepreneurship. The grants are intended to build public and private capacity to invent and improve products and services and to bring those products and services to market through a process often referred to as technology commercialization, as demonstrated by methodologically sound metrics for output and outcome.

§ 312.5 Regional Innovation Strategies Program definitions.

In addition to the defined terms set forth in subpart A of this part, the following term applies specifically to the RIS Program:

Institution of higher education means:

- (1) An educational institution in any State that—
 - (i) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of 20 U.S.C. 1091(d);
 - (ii) Is legally authorized within such State to provide a program of education beyond secondary education;
 - (iii) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary of Education; and
 - (iv) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary of Education for the granting of preaccreditation status, and the Sec-

retary of Education has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(2) *Additional institutions included.* For purposes of this subpart, the term *Institution of higher education* also includes—

(i) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraphs (1)(i), (ii), and (iv) of this definition; and

(ii) An educational institution in any State that, in lieu of the requirement in paragraph (1)(i) of this definition, admits as regular students individuals—

(A) Who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) Who will be dually or concurrently enrolled in the institution and a secondary school.

§ 312.6 Eligible recipients.

A recipient eligible for investment assistance includes:

- (a) A State;
- (b) An Indian tribe;
- (c) A city or other political subdivision of a State;
- (d) An entity that is a nonprofit organization and whose application for funding under the RIS Program is supported by a State or a political subdivision of a State;
- (e) An entity that is an institution of higher education, a public-private partnership, a science or research park, a Federal laboratory, or an economic development organization or similar entity, and whose application for funding under the RIS Program is supported by a State or a political subdivision of a State; or
- (f) A consortium of any of the entities described in paragraphs (a) through (e) of this section.

§ 312.7 Eligible project activities.

(a) Activities eligible for a RIS Program grant include:

- (1) Feasibility studies;
- (2) Planning activities;

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(3) Technical assistance;

(4) Developing or strengthening communication and collaboration between and among participants of a regional innovation cluster;

(5) Attracting additional participants to a regional innovation cluster;

(6) Facilitating market development of products and services of a regional innovation cluster, including through demonstration, deployment, technology transfer, and commercialization activities;

(7) Developing relationships between a regional innovation cluster and entities or clusters in other regions;

(8) Interacting with the public and State and local governments to meet the goals of the regional innovation cluster;

(9) Purchase of equipment and equipment-related modifications or renovations of a facility, but only to the extent that such equipment and any related modifications or renovations are used to support another eligible activity as described in this section (the recipient may be required to secure and record the Federal interest in the equipment); and

(10) Any other activity determined appropriate by the Assistant Secretary and consistent with section 27(b) of Stevenson-Wydler.

(b) An ineligible activity includes, but is not limited to:

(1) Use of Federal funds or matching share for equity investments;

(2) Acquisition or improvement of real property;

(3) Construction except to the extent provided in paragraph (a)(9) of this section; and

(4) Lending programs, such as a direct loan program or capitalizing a revolving loan fund.

§ 312.8 Investment rates.

(a) *Minimum investment rate.* There is no minimum investment rate for a project.

(b) *Maximum investment rate.* The maximum investment rate for a project shall not exceed 50 percent.

§ 312.9 Matching share requirements.

The required matching share of a project's eligible costs may consist of cash or in-kind contribution(s) whose

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value can be readily determined, verified, and justified. Applicants must show at the time of application that the matching share is committed to the project, will be available as needed, and is not or will not be conditioned or encumbered in any way that would preclude its use consistent with the requirements of the investment assistance. EDA shall determine at its sole discretion whether the matching share documentation adequately addresses the requirements of this section.

§ 312.10 Application components.

In addition to the criteria set forth in the FFO, to be considered for a RIS Program grant, eligible applicants must provide the following information:

(a) A description of the regional innovation cluster supported by the proposed activity;

(b) The extent to which the regional innovation cluster is supported by the private sector, State and local units of government, and other relevant stakeholders;

(c) The methods that participants in the regional innovation cluster will use to encourage and solicit participation by all types of entities that might benefit from participation, including newly formed entities and rival existing participants;

(d) The extent to which the regional innovation cluster is likely to stimulate innovation and have a positive effect on regional economic growth and development;

(e) The capacity of participants in the regional innovation cluster to access, or contribute to, a well-trained workforce;

(f) The ability of participants in the regional innovation cluster to attract additional funds to support the cluster with non-Federal funds; and

(g) The likelihood that participants in the regional innovation cluster will be able to sustain activities after the grant expires.

§ 312.11 Application evaluation and selection criteria.

(a) EDA will evaluate and select complete applications in accordance with the evaluation criteria, funding priority considerations, availability of

funding, competitiveness of the application, and requirements set forth in section 27(b) of Stevenson-Wydler, the FFO, and other applicable Federal statutes and regulations. All awards are subject to the availability of funds.

(b) EDA will endeavor to notify applicants as soon as practicable regarding whether their applications are selected for funding.

(c) Stevenson-Wydler does not require nor does EDA provide an appeal process for denial of applications for EDA investment assistance.

§ 312.12 General terms and conditions for investment assistance.

RIS Program grants are subject to all requirements contained in part 302 of this chapter, except §§ 302.2, 302.3, 302.9, 302.10, and 302.17.

Subpart C—Regional Innovation Research and Information Program [Reserved]

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PART 313 [Reserved]

PART 314—PROPERTY

Sec.

314.1 Definitions.

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314.4 Unauthorized Use of Property.

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314.10 Procedures for release of EDA's Property interest.

AUTHORITY: 42 U.S.C. 3211; Department of Commerce Organization Order 10-4.

SOURCE: 71 FR 56675, Sept. 27, 2006, unless otherwise noted.

§ 314.1 Definitions.

In addition to the defined terms set forth in § 300.3 of this chapter, the following terms shall have the following meanings:

Adequate Consideration means the fair market value at the time of sale or lease of any Property, as adjusted, in EDA's sole discretion, by any services,

property exchanges, contractual commitments, acts of forbearance or other considerations that are in furtherance of the authorized purposes of the Investment Assistance, which are received by the Recipient or Owner in exchange for such Property.

Disposition or *Dispose* means the sale, lease, abandonment or other disposition of any Property and also includes the Unauthorized Use of such Property.

Estimated Useful Life, as used in this part, means the period of years that constitutes the expected useful lifespan of a Project, as determined by EDA, during which EDA anticipates obtaining the economic development benefits of its Investment.

Federal Interest has the definition ascribed to it in § 314.2(a).

Federal Share has the definition ascribed to it in § 314.5.

Owner means a fee owner, transferee, lessee or optionee of any Property. The term Owner also includes the holder of other interests in a Property where the interests are such that the holder effectively controls the use of such Property.

Personal Property means all tangible and intangible property other than Real Property.

Property means Real Property, Personal Property and mixed property.

Real Property means any land, whether raw or improved, and includes structures, fixtures, appurtenances and other permanent improvements, excluding moveable machinery and equipment. Real Property includes land that is improved by the construction of Project infrastructure such as roads, sewers, and water lines that are not situated on or under the land, where the infrastructure contributes to the value of such land as a specific purpose of the Project.

Successor Recipient means an EDA-approved transferee of Property pursuant to § 314.3(d). A Successor Recipient must be an Eligible Recipient of Investment Assistance.

Unauthorized Use means any use of Property acquired or improved in